

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Title 18, United States Code, Section 922(a)(1)(A) - Dealing
 in Firearms Without a License; Title 18, United States Code,
 Section 922(o)(1) - Possession and Transfer of a Machine Gun

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: SEE ATTACHED

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

FILED

DEFENDANT - U.S.

NOV 15 2018

MARLON RAFAEL PEREZ-HERRERA

 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTH DISTRICT OF CALIFORNIA
 OAKLAND OFFICE

DISTRICT COURT NUMBER

CR 18 561 YGR**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

Bureau of Alcohol, Tobacco, Firearms and Explosives

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

Name and Office of Person

Furnishing Information on this form ALEX G. TSE

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) THOMAS R. GREEN, AUSA

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

 1) ☒ If not detained give date any prior
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction☐ Federal ☐ State6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: No Bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

ATTACHMENT TO PENALTY SHEET – MARLON PEREZ-HERRERA

18 U.S.C. § 922(o)(1) – Possession or Transfer of a Machine Gun

- o 10 years prison
- o \$250,000 fine
- o 3 years supervised release
- o Criminal Forfeiture (18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c))

18 U.S.C. §§ 922(a)(1)(A) and 2 – Dealing in Firearms without a License (and aiding and abetting the same)

- o 5 years prison
- o \$250,000 fine
- o 3 years supervised release
- o Criminal Forfeiture (18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c))

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: Oakland

FILED

NOV 15 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

UNITED STATES OF AMERICA,

V.

MARLON RAFAEL PEREZ-HERRERA,

CR 18 561

YGR

DEFENDANT.

INDICTMENT

18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License;
18 U.S.C. § 922(o) – Possession and Transfer of a Machinegun;
18 U.S.C. § 924(d)(1) – Criminal Forfeiture

A true bill.

HELEA GRUBER

Foreman

[Signature]

Filed in open court this 15 day of NOV 2018

[Signature]

Clerk

[Signature]

11/15/18

Bail, \$ **NO BAIL WARRANT**

ALEX G. TSE (CABN 152348)
United States Attorney

FILED

NOV 15 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARLON RAFAEL PEREZ-HERRERA,

Defendant.

NO.

CR 18 561

YGR

VIOLATIONS: 18 U.S.C. § 922(a)(1)(A) – Dealing
in Firearms Without a License; 18 U.S.C. § 922(o) –
Possession and Transfer of a Machinegun; 18 U.S.C.
§ 924(d)(1) – Criminal Forfeiture

OAKLAND VENUE

UNDER SEAL

INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License)

On or about September 26, 2018, in the Northern District of California, the defendant,
MARLON RAFAEL PEREZ-HERRERA,
not being a licensed importer, manufacturer, dealer, and collector of firearms, within the meaning of
Chapter 44, Title 18, United States Code, did willfully engage in the business of dealing in firearms,
namely, three “Glock” auto-switches that defendant knew were parts designed and intended, solely and
exclusively, for use in converting a weapon into a machinegun, in violation of Title 18, United States
Code, Section 922(a)(1)(A).

1 COUNT TWO: (18 U.S.C. § 922(o) – Possession and Transfer of a Machinegun)

2 On or about September 26, 2018, in the Northern District of California, the defendant,
3 MARLON RAFAEL PEREZ-HERRERA,
4 did knowingly possess and transfer machineguns, namely, three “Glock” auto-switches that defendant
5 knew were parts designed and intended, solely and exclusively, for use in converting a weapon into a
6 machinegun, in violation of Title 18, United States Code, Section 922(o).

7
8 COUNT THREE: (18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License)

9 On or about October 1, 2018, in the Northern District of California, the defendant,
10 MARLON RAFAEL PEREZ-HERRERA,
11 not being a licensed importer, manufacturer, dealer, and collector of firearms, within the meaning of
12 Chapter 44, Title 18, United States Code, did willfully engage in the business of dealing in firearms,
13 namely, one Taurus 9mm caliber semi-automatic pistol bearing serial number TLP08519, in violation of
14 Title 18, United States Code, Section 922(a)(1)(A).

15
16 COUNT FOUR: (18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License)

17 On or about October 10, 2018, in the Northern District of California, the defendant,
18 MARLON RAFAEL PEREZ-HERRERA,
19 not being a licensed importer, manufacturer, dealer, and collector of firearms, within the meaning of
20 Chapter 44, Title 18, United States Code, did willfully engage in the business of dealing in firearms,
21 namely, one .223 caliber AR-style semi-automatic pistol bearing no serial number, and one Llama .45
22 caliber semi-automatic pistol bearing serial number 404881, in violation of Title 18, United States Code,
23 Section 922(a)(1)(A).

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COUNT FIVE: (18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License)

On or about October 23, 2018, in the Northern District of California, the defendant,

MARLON RAFAEL PEREZ-HERRERA,

not being a licensed importer, manufacturer, dealer, and collector of firearms, within the meaning of Chapter 44, Title 18, United States Code, did willfully engage in the business of dealing in firearms, namely, one Inter Ordnance 5.56 caliber assault rifle bearing serial number IO15-00572, and one Windham Weaponry, Inc. 5.56 caliber assault rifle bearing serial number WW065208, in violation of Title 18, United States Code, Section 922(a)(1)(A).

COUNT SIX: (18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License)

On or about October 23, 2018, in the Northern District of California, the defendant,

MARLON RAFAEL PEREZ-HERRERA,

not being a licensed importer, manufacturer, dealer, and collector of firearms, within the meaning of Chapter 44, Title 18, United States Code, did willfully engage in the business of dealing in firearms, namely, one Springfield 9mm semi-automatic pistol bearing serial number NM477391, in violation of Title 18, United States Code, Section 922(a)(1)(A).

COUNT SEVEN: (18 U.S.C. § 922(a)(1)(A) – Dealing in Firearms Without a License)

On or about October 29, 2018, in the Northern District of California, the defendant,

MARLON RAFAEL PEREZ-HERRERA,

not being a licensed importer, manufacturer, dealer, and collector of firearms, within the meaning of Chapter 44, Title 18, United States Code, did willfully engage in the business of dealing in firearms, namely, one Palmetto AR-style 556 x 45 caliber firearm bearing serial number LW341826, one Glock 9mm caliber semi-automatic pistol bearing serial number BELK357, one Glock 9mm caliber semi-automatic pistol bearing serial number BAHD886, one Glock .40 caliber semi-automatic pistol bearing serial number BAEC636, and one “Glock” auto-switch that defendant knew was a part designed and intended, solely and exclusively, for use in converting a weapon into a machinegun, in violation of Title 18, United States Code, Section 922(a)(1)(A).

COUNT EIGHT: (18 U.S.C. § 922(o) –Possession and Transfer of a Machinegun)

On or about October 29, 2018, in the Northern District of California, the defendant,
 MARLON RAFAEL PEREZ-HERRERA,
 did knowingly possess and transfer a machinegun, namely, one “Glock” auto-switch that defendant
 knew was a part designed and intended, solely and exclusively, for use in converting a weapon into a
 machinegun, in violation of Title 18, United States Code, Section 922(o).

FORFEITURE ALLEGATION: (18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c) – Criminal Forfeiture)

1. The factual allegations contained in Counts One through Eight of this Indictment are
 realleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant
 to the provisions of 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c).

2. Upon a conviction for an offense alleged in Counts One through Eight, the defendant,
 MARLON RAFAEL PEREZ-HERRERA,
 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d) and Title 28,
 United States Code, Section 2461(c), all right, title, and interest in any firearm and ammunition involved
 in or used in any violation of said offense, including, but not limited to, the following property:

- a. One Taurus 9mm caliber semi-automatic pistol bearing serial number TLP08519
- b. one assault rifle style .223 caliber semi-automatic pistol and one associated magazine;
- c. one Llama .45 caliber semi-automatic pistol, bearing serial number 404881 and two associated magazines;
- d. one Inter Ordnance 5.56 caliber assault rifle, bearing serial number IO15-00572 and four associated magazines;
- e. one Windham Weaponry, Inc. 5.56 caliber assault rifle, bearing serial number WW065208 and two associated magazines;
- f. one Springfield Armory 9mm caliber handgun, bearing serial number NM477391 and thee associated magazines;

- g. one Palmetto assault rifle style 556 x 45 caliber firearm, bearing serial number LW341826;
- h. one Glock 9mm caliber semi-automatic pistol, bearing serial number BELK357;
- i. one Glock 9mm caliber semi-automatic pistol, bearing serial number BAHD886;
- j. one Glock .40 caliber semi-automatic pistol, bearing serial number BAEC636;
- and
- k. four "Glock" auto-switch machinegun conversion devices without any serial numbers.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

any and all interest defendant has in any other property (not to exceed the value of the above forfeitable property) shall be forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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1 All pursuant to Title 18, United States Code, Section 924(d)(1), Title 28, United States Code,
2 Section 2461(c), and the Rule 32.2 of the Federal Rules of Criminal Procedure.

3 DATED: November 15, 2018

A TRUE BILL.

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5 
6 FOREPERSON

7 ALEX G. TSE
8 United States Attorney

9 
10 GARTH HIRE
11 Chief, Oakland Branch

12
13 (Approved as to form: )
14 AUSA THOMAS R. GREEN